IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMARY SUIT NO.643 OF 2006

Vinay Gopal Rathi. ...Plaintiff.
Vs.
Nathgoda Ramgoda Charate. ...Defendant.
....
Mrs.Gouri Manoharan i/b.Mrs.Malika A. Ingale for the Plaintiff.
None for the Defendant.
.....

CORAM :DR.D.Y.CHANDRACHUD, J.
19th June 2007.

P.C.:

The suit under Order 37 of the Code of Civil Procedure, 1908 has been instituted to recover the outstandings under unpaid bills for goods sold, supplied and delivered. The goods were supplied under invoices between 12th November 2002 and 25th February 2003. The suit was instituted on 29th October 2005 within the period of limitation. The invoices are annexed at Exhs.B-1 to B-10 to the plaint; the lorry receipts are annexed at Exhs.C-1 to C-10 while the delivery challans are annexed at Exhs.D-1 to D-10.

The Defendant has failed to appear despite service of the

writ of Summons. An affidavit proving service of the writ of Summons has been filed. The Plaintiff has tendered a compilation of the original documents upon which the claim in the suit has been duly proved. The Defendant having failed to enter appearance, the Plaintiff would be entitled to a decree since the claim falls within the purview of Order 37. However, even otherwise, the claim is proved on the basis of the documentary material on the record. The suit shall accordingly stand decreed as prayed with the modification that the Plaintiff will be entitled to interest at the rate of 12% per annum on the principal sum of Rs.1,50,853.54 from the date of the suit until payment or realisation.

Refund of the Court fees, if any, as per rules.

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